

## SEARCH AND SEIZURE -- Consent searches.....Revised 1/2010

Generally, the police must obtain a warrant before searching or seizing premises or property in which an individual has a reasonable expectation of privacy. U.S. Const. amends. IV, XIV; *see also Katz v. United States*, 389 U.S. 347, 353, 88 S.Ct. 507, 512, 19 L.Ed.2d 576 (1967); *State v. Jones*, 185 Ariz. 471, 480, 917 P.2d 200, 209 (1996); *State v. Castaneda*, 150 Ariz. 382, 389, 724 P.2d 1, 8 (1986). But an exception exists when the police obtain a voluntary consent to search from the person whose property is to be searched. *State v. Guillen*, 223 P.3d 658, ¶ 11 (2010); *State v. Groshong*, 175 Ariz. 67, 70, 852 P.2d 1251, 1254 (App.1993).

A consent to search a vehicle generally extends to searches of containers found inside the vehicle. *Florida v. Jimeno*, 500 U.S. 248 (1991). The owner of a vehicle cannot, however, consent to a search of a container in the vehicle if she does not have apparent authority to do so, i.e., if she does not at least appear to have common authority over the container. *State v. Bentlage*, 192 Ariz. 117, 119, ¶ 6, 961 P.2d 1065, 1067 (App. 1998). In *State v. Bentlage*, the owner of a vehicle granted consent for the police to search her car. The Court held the police did not have consent to search a container in the car that they did not believe belonged to owner of the vehicle and which in fact belonged to somebody else. *Id.*